

REMARKS

Reexamination and reconsideration of claims 1-27, 29-42, and 44 are respectfully requested. Claims 28 and 43 have been cancelled without prejudice. Additionally, the Examiner's acknowledgement of Applicants' Information Disclosure Statements is appreciated.

Claims 1-31 were rejected under 35 U.S.C. sec. 112, second paragraph, as being indefinite. Claims 1 and 17 were amended to remove any indefiniteness that may have existed. Regarding claims 4, 5, 20, 21, 34, and 35 the claims recite a cable having either "a non-preferential bend characteristic" or "a preferential bend characteristic." It is respectfully submitted that one skilled in the art would have understood these terms and known their meaning. Moreover, page 10 of the specification discusses both of these bend characteristics and provides examples thereof. As discussed in the specification, a non-preferential bend cable has bending moments of inertia that are roughly equal in the X and Y axes. In other words, the cable generally bends equally well in all directions. On the other hand, a preferential bend characteristic favors bending in a given plane due to unequal bending moments of inertia. One skilled in the art would have understood claims 4, 5, 20, 21, 34, and 35. Therefore, withdrawal of the sec. 112 rejection, second paragraph, of claims 1-31 is respectfully requested.

Claims 1-5, 7-9, 11, 13-23, 26, 28, 30 and 31 were rejected under 35 U.S.C. sec. 102(b) applying WO99/53353 (the '353 publication). The '353 publication requires a fiber optic cable having two profiled bodies that are inserted into each other, thereby providing a chamber that is sealed. See the Abstract of the '353 publication. In other words, the two profiled bodies must be "peeled apart" to access the optical fiber within the chamber. For a reference to be applicable under sec. 102(b), the

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reference must, *inter alia*, disclose each and every feature of the claimed invention.

It is respectfully submitted that the '353 publication does not disclose, teach, or otherwise suggest each and every feature of the claimed invention. Moreover, the amendment of claims 1, 17 and 32 is not an admission that the art of record teaches, discloses, or otherwise suggests the features of the claims. Specifically, the '353 publication fails to disclose, teach, or otherwise suggest a fiber optic cable having at least one fiber access opening that is an open side or portion thereof as recited in claims 1, 17, and 32. The fiber access opening allows access to the at least one optical fiber component therethrough without substantially disturbing the strength member. See the present application at p. 9, ll. 10-14. Rather, the objective evidence of '353 publication reveals that the optical fibers are disposed in a sealed chamber formed by the profiled bodies. For at least these reasons, withdrawal of the sec. 102(b) rejection of claims 1-5, 7-9, 11, 13-23, 26, 30 and 31 is warranted and is respectfully requested.

Claims 1 and 17 were rejected under 35 U.S.C. sec. 102(b) applying U.S. Pat. No. 4,852,966 (the '966 patent). The '966 patent relates to an optical cable element consisting of a corrugated sheet (4) requiring tapelike sheets (2,3) secured to both sides using adhesive. See the Abstract of the '966 patent. In other words, the optical fibers are enclosed in a chamber formed by the tapelike sheets (2,3) and the corrugated sheet (4). For a reference to be applicable under sec. 102(b), the reference must, *inter alia*, disclose each and every feature of the claimed invention.

It is respectfully submitted that the '966 patent does not disclose, teach, or otherwise suggest each and every feature of claims 1 and 17. Specifically, the '966 patent fails to disclose, teach, or otherwise suggest a fiber optic cable having at least

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one fiber access opening that is an open side or portion thereof as recited in claims 1 and 17. Instead, the objective evidence of '966 patent reveals that the optical fibers are disposed in a chamber formed using adhesive for gluing tapelike sheets (2,3) to corrugated sheet (4). For at least these reasons, withdrawal of the sec. 102(b) rejection of claims 1 and 17 is warranted and is respectfully requested.

Claims 10, 24, and 25 were rejected under 35 U.S.C. sec. 103(a) applying the '353 publication in view of U.S. Pat. No. 6,137,936 ('936). The sec. 103(a) rejection of claims 10, 24, and 25 is respectfully traversed for the reasons stated above with respect to claims 1 and 17. For at least this reason, withdrawal of the sec. 103(a) rejection of claims 10, 24, and 25 is warranted and is respectfully requested.

Claims 12, 27, and 32-44 were rejected under 35 U.S.C. sec. 103(a) applying the '353 publication without a teaching reference. The sec. 103(a) rejection of claims 12, 27, and 32-44 is respectfully traversed for the reasons stated above with respect to claims 1, 17, and 32. For at least this reason, withdrawal of the sec. 103(a) rejection of claims 12, 27, and 32-42, and 44 is warranted and is respectfully requested.

Claims 6 and 29 were rejected under 35 U.S.C. sec. 103(a) applying the '966 patent without a teaching reference. The sec. 103(a) rejection of claims 6 and 29 is respectfully traversed for the reasons stated above with respect to claims 1 and 17. For at least this reason, withdrawal of the sec. 103(a) rejection of claims 6 and 29 is warranted and is respectfully requested.

No fees are believed due in connection with this Reply. If any fees are due in connection with this Reply, please charge any fees, or credit any overpayment, to Deposit Account Number 19-2167.

Allowance of all pending claims is believed to be warranted and is respectfully requested.

The Examiner is welcomed to telephone the undersigned to discuss the merits of this patent application.

Respectfully submitted,

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